

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND  
PROCEDURE FOR THE 35TH JUDICIAL CIRCUIT, FAMILY  
COURT DIVISION, PIKE COUNTY**

Upon recommendation of the Judges of the 35th Judicial Circuit, and  
being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 35th Judicial Circuit,  
Family Court Division, Pike County, are hereby approved. This order shall be  
effective as of the date of this Order, and shall remain in effect until further  
orders of this court.

Entered this the 4<sup>th</sup> day of April 2012.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF COURT  
PRACTICE AND PROCEDURE  
COMMONWEALTH OF KENTUCKY**

**PIKE CIRCUIT COURT  
35<sup>TH</sup> JUDICIAL CIRCUIT  
FAMILY DIVISION**

## TABLE OF CONTENTS

<b>RULE 1</b>	<b>INTRODUCTION / ADMINISTRATIVE PROCEDURE</b>	<b>1</b>
101	Preface.....	1
102	Effective Date .....	1
103	Citation.....	1
104	Holidays .....	1
<b>RULE 2</b>	<b>COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING</b>	<b>1</b>
201	Regular Motion Hour Schedule .....	1
<b>RULE 3</b>	<b>ADOPTIONS / TERMINATION OF PARENTAL RIGHTS</b>	<b>2</b>
301	Temporary Custody Order .....	2
<b>RULE 4</b>	<b>DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY</b>	<b>2</b>
401	Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol .....	2
402	Procedures for Filing and Obtaining Emergency Protective Orders.....	2
403	Violation of Domestic Violence Orders.....	2
404	Hearings .....	2
<b>RULE 5</b>	<b>PATERNITY</b>	<b>3</b>
501	Motion Practice.....	3
502	Guardian Ad Litem/Military Attorney appointed for actions filed pursuant to KRS 406 .....	3
503	Redocketing Fee.....	3
504	Permission to Review and Copy Paternity Case Files .....	3
505	Access to Paternity Cases for Attorneys and Guardians Ad Litem Representing Incarcerated Parents4	
<b>RULE 6</b>	<b>DEPENDENCY, NEGLECT, AND ABUSE</b>	<b>4</b>
601	Petition.....	4
602	The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision .....	4
603	Time for Temporary Removal Hearing.....	5

604	Guardians Ad Litem and Parent Attorneys .....	5
605	Duty of Guardian Ad Litem and Parent Attorney to Continue .....	5
606	Records and Transcripts.....	5
607	Dispositional Hearing .....	5
<b>RULE 7</b>	<b>DOMESTIC RELATIONS PRACTICE</b>	<b>5</b>
701	Required Case Information .....	5
702	Divorce Education Program.....	5
703	Mediation.....	6
<b>RULE 8</b>	<b>STATUS OFFENSES</b>	<b>7</b>
<b>RULE 9</b>	<b>MISCELLANEOUS</b>	<b>7</b>
901	Identification of Counsel or Party Required .....	7
902	Protection of Personal Identifiers.....	8
903	Notice of Submission.....	8
904	Video Copies of In-Chamber Interviews with Children .....	8
905	Requests for Confidential Video Records.....	8
<b>APPENDIX A</b>		<b>10</b>

## **RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE**

### **101 Preface**

These are the Uniform Rules of Court Practice and Procedures of the Pike Circuit Court, Family Division (Pike Family Court). These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Pike Family Court Rules. All previous rules adopted by the Pike Family Court are hereby rescinded.

### **102 Effective Date**

The effective date of these rules shall be thirty (30) days after Kentucky Supreme Court's approval.

### **103 Citation**

These Rules shall be cited as PFRP (Pike Family Court Rules of Practice).

### **104 Holidays**

Holiday schedules may be obtained at the Pike Circuit Court Clerk's Office and the Pike Family Court Office.

## **RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING**

### **201 Regular Motion Hour Schedule**

- A. The Pike Family Court does not utilize a Motion Hour per se. Counsel and pro se litigants who use Court Net will find that all motions are scheduled for Friday's at 1:00 p.m. This is not a scheduled hearing, **NO ATTENDANCE IS REQUIRED**. All motions filed in Pike Family Court by 12:00 pm on Wednesday shall be placed on the Court's weekly motion docket. The judge will rule on said motions by sustaining, overruling, or assigning for a status conference to determine how much time is needed for said hearing.

### **202 Deadline for Serving and Filing Motions**

- A. All motions filed pursuant to PFRP 201 (A) shall be filed and clocked no later than 12:00 pm on Wednesday with copies to be either mailed, hand delivered or sent by electronic transmission (CR 5.02). All motions filed after 12:00 pm shall be placed on the following week's motion hour.

## **203 Emergency Motions**

- A. All motions requiring emergency action by the Court shall be filed as detailed in PFRP 201 (A). In addition, a copy of said motion shall be delivered to the Pike Family Court Judge's office for review. Attached to said motion shall be two orders: (1) granting said motion and scheduling for hearing; and, (2) denying said motion and scheduling for hearing.

## **RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS**

### **301 Temporary Custody Order**

Temporary Custody Orders granted pursuant to KRS 199.473(7) shall be SEALED, and not opened to inspection by persons other than the parties to such proceedings and their counsel.

## **RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

### **401 Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol**

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the 35th Judicial Circuit and District, consisting of Pike County, Kentucky, is attached in Appendix A and incorporated by reference as if set out fully herein.

### **402 Procedures for Filing and Obtaining Emergency Protective Orders**

A verified petition for a Domestic Violence Order (DVO) and Ex Parte Emergency Protective Order (EPO) shall be filed at the Pike Circuit Court Clerk's office located in the Hall of Justice, 89 Division Street, Pikeville, Kentucky. The clerk's office is open from 8:00 a.m. – 4:00 p.m. Monday through Friday exclusive of holidays. After hours and on holidays the domestic violence forms may be obtained from the following: (1) any law enforcement agency in Pike County; and, (2) Trial Commissioner.

### **403 Violation of Domestic Violence Orders**

Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders may be referred to the Pike District Court for possible prosecution, or the Pike Family Court for a contempt hearing. The option of which remedy to seek will be at the discretion of the Petitioner.

### **404 Hearings**

Cases shall be scheduled within fourteen days of filing. If parties require more than fifteen minutes to present their evidence the Court may assign the parties to the end of the docket or the parties may request the hearing be scheduled for a later date with more time allotted for the hearing.

## **RULE 5 PATERNITY**

### **501 Motion Practice**

Motions for default judgments for failure to plead or otherwise defend, as provided by the Rules of Civil Procedure, shall not be noticed for a hearing before the Court but shall be filed with the Court and stand submitted upon filing. If the court determines a hearing is necessary under CR 55.01, a hearing date will be assigned.

### **502 Guardian Ad Litem/Military Attorney appointed for actions filed pursuant to KRS 406**

1. In order to be appointed as Guardian Ad Litem, any licensed attorney in good standing with the Kentucky Bar Association may apply. The appointment is to be made and compensation paid according to the statute, case law, or civil rule authorizing the appointment.
2. Motions for compensation shall be accompanied by an affidavit indicating:
  - a. The statutory basis for appointment;
  - b. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
  - c. That the action or proceedings have been concluded.
3. Guardians Ad Litem appointed to represent unmarried infants, persons of unsound mind, or adult prisoners shall notify the respondent of his/her appointment as a Guardian Ad Litem, inform the respondent of the nature of the proceeding and of the respondent's right to have genetic testing conducted.

### **503 Redocketing Fee**

- A. Pursuant to FCRPP 14(1), a \$50.00 redocketing fee shall not be paid for motions in cases brought pursuant to Title IV-D of the Social Security Act for child support modification or enforcement. However, where an action is initiated pursuant to Title IV-D but subsequent motions regarding child support, custody or visitation are brought by a private attorney or are filed by a party pro se, rather than by Title IV-D counsel, the fee shall be charged unless the motion is brought in forma pauperis.

### **504 Permission to Review and Copy Paternity Case Files**

Upon receipt of the Pike Circuit Court Clerk's Office of an attorney's statement seeking permission to review and copy a paternity case file, **OR** upon the receipt by the Pike Circuit Clerk's Office of a party's signed and notarized release authorizing an attorney to inspect the party's paternity case file, for reasons relating to representation in that action of a party thereto, the Clerk's office shall grant the attorney access to such a file.

Pursuant to KRS 406.035, the attorney seeking permission to review and/or copy the paternity file shall sign a statement that the order of judgment is the only information which may be shared with the client and that all other information in the case cannot be disclosed to the client, including information relating to domestic violence or child abuse as well as the addresses of the parties. Regardless of the subsequent representation or non-representation of the party, any information contained in such file is confidential and subject to the attorney-client privilege.

**505 Access to Paternity Cases for Attorneys and Guardians Ad Litem Representing Incarcerated Parents**

The Pike Circuit Court Clerk's Office shall allow attorneys and Guardians Ad Litem who are representing incarcerated parents in paternity cases to have access to the records of those actions.

**RULE 6 DEPENDENCY, NEGLECT, AND ABUSE**

**601 Petition**

A. All petitions shall be filed in accordance with FCRPP 20. The petition shall be submitted to the Family Court Judge for determination of legal sufficiency. If the Family Court Judge is unavailable the petition shall be presented to a district for review. If after review, the judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the petition shall be dismissed. If the petition is approved, the judge shall initial the petition for filing. A copy shall be distributed to the assistant county attorney assigned to prosecute dependency actions and the original shall be filed with the Office of the Pike Circuit Court Clerk.

B. Any petition filed with this Court shall comply with the following conditions:

1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to, initiating contact with the Child Support Division of the Pike County Attorney's Office.

**602 The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision**

The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18.1 if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.



**603 Time for Temporary Removal Hearing**

The Temporary Removal Hearing shall be held according to the following guidelines:

- A. The Temporary Removal Hearing shall be scheduled on the dependency docket within 72 hours, excluding holidays and weekends, of the issuance of an ECO. If the dependency docket will not be held within 72 hours, the Temporary Removal Hearing will be scheduled for the division's emergency docket within 72 hours of the issuance of the ECO. Such hearing should be scheduled toward the end of the 72 hours to allow time for service to be attempted.
- B. The Temporary Removal Hearing shall be held no earlier than the day following the filing of the petition to allow time for service to be attempted.

**604 Guardians Ad Litem and Parent Attorneys**

The Court shall assign a Guardians Ad Litem to each case when the petition is filed, in order to facilitate consistent, high-quality advocacy representation of all parties. Counsel for the person exercising custodial control shall be appointed at the temporary removal hearing.

**605 Duty of Guardian Ad Litem and Parent Attorney to Continue**

After a Guardian Ad Litem or parent attorney accepts an appointment, representation shall continue through all stages of the dependency, neglect, abuse, or termination of parental rights and adoption proceedings. All parties shall be served with notice of an attorney's request to withdraw.

**606 Records and Transcripts**

A videotaped record of all proceedings shall be kept and copies shall be available to the parties and their counsel upon request in accordance with the provisions of FCRPP 27.

**607 Dispositional Hearing**

At the dispositional hearing CHFS shall provide the court with the information required pursuant to FCRPP 28 by completing form DNA 12. In addition, if the siblings have been separated, CHFS shall explain the reasons for the separation.

**RULE 7 DOMESTIC RELATIONS PRACTICE**

**701 Required Case Information**

A Case Data Information sheet shall be filed with the petition (Form AOC-FC-3).

**702 Divorce Education Program**

Families involved in a divorce proceeding where there are minor children may be ordered to participate in a Divorce Education Program or Families In Transition (FIT) program.

## **703 Mediation**

### **A. Mediation**

If mediation is agreed to by the parties and ordered by the court pursuant to FCRPP 2(6), the parties shall engage in said mediation unless the exceptions provided under KRS 403.036 apply.

### **B. Requirements for Property Mediation**

The parties shall exchange and provide to the mediator, in no less than five (5) working days prior to the mediation conference, the following:

1. Supplement to financial disclosure statement regarding any material change:
2. A short statement including definition of the issue to be addressed by the mediator and a brief narrative statement of any special problems affecting the case (e.g. closely held corporation, medical problems of any family member, etc.).
  - a. Copies of all documents supporting valuation of assets;
  - b. Copies of all documents verifying monthly payments and outstanding balances on all debts; and,
  - c. All information and copies of all documents requested by the mediator prior to the mediation conference.

### **C. Adjournment**

The mediator may suspend or terminate mediation whenever, in the opinion of the mediator, the matter is not appropriate for further mediation or at the request of either party.

### **D. Counsel**

The parties shall attend the mediation conference and shall appear promptly at the time and location for the scheduled mediation conference. The attorneys for each party may attend and participate, subject to the defined roles of the mediator, and shall at all times be permitted to privately communicate with their respective clients.

### **E. Compensation of Mediator**

The mediator shall be compensated at the rate agreed upon by the mediator and the parties.

**F. Completion of Mediation**

1. At the conclusion of mediation, the mediator shall report without comment to the Court and the Pike Family Court Office as to the outcome of the mediation, (i.e. a full agreement, partial agreement or mediation terminated). A termination or non-agreement shall be without prejudice to either party.
  - a. Handwritten or recorded mediation agreements must be typed and signed by all parties and their counsel, if any, within ten (10) working days.
2. The Court shall retain final authority to accept, modify, or reject an agreement.
3. The parties shall have the affirmative duty to contact the court's secretary and remand any pending hearings concerning resolved issues.

**G. Confidentiality**

1. Mediation proceedings shall be held in private and all communications, verbal or written, made in the proceedings shall be confidential. The same protection shall be given to communications between the parties in the presence of the mediator, and to all communications, verbal or written, with the Pike Family Court Office or designee. The only exception to this Rule is that the mediator shall be responsible for reporting abuse according to KRS 209.030, KRS 209A.030 and KRS 620.030.
2. All conduct and communications made during a mediation conference shall be treated as settlement negotiations and shall be governed by K.R.E. 408.
3. Mediators shall not be subpoenaed regarding the disclosure of any matter discussed during the mediation which is considered confidential. This privilege and immunity resides with the mediator and may not be waived by the parties.

**RULE 8 STATUS OFFENSES**

There are no local rules pertaining to Status Offense cases. See FCRPP 37 through 44 for uniform statewide rules.

**RULE 9 MISCELLANEOUS**

**901 Identification of Counsel or Party Required**

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and e-mail address of the attorney or party signing the paper. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

## **902 Protection of Personal Identifiers**

A. The Family Court Case Data Sheet must be fully completed in all cases. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in paragraph B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court. As used in this section, "personal identifier" means a Social Security number or taxpayer identification number, date of birth, or financial account number.

B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by PFRP 504 and by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

## **903 Notice of Submission**

In accordance with SCR 1.05(8), when any action stands submitted for final adjudication, counsel or unrepresented parties shall file an AOC Form 280 with the Judge, Family Court Clerk and Administrative Office of the Courts.

## **904 Video Copies of In-Chamber Interviews with Children**

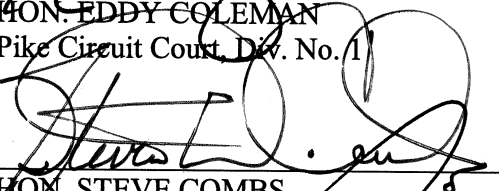
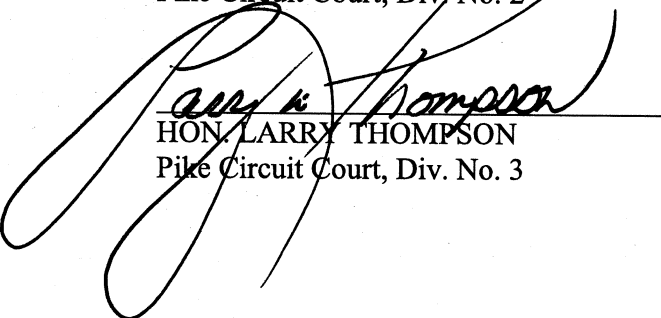
Pursuant to FCRPP 17, the Pike County Circuit Court Clerk's Office shall not release any Pike Family Division video in-chamber interviews with children without a specific written order of the Family Court Judge. An individual requesting a judicial order must provide the Family Court Judge a written explanation for the request which specifically indicates the portion of the video record being requested is an in-chamber interview with a child and specific purpose for the request.

## **905 Requests for Confidential Video Records**

The Pike County Circuit Court Clerk's office shall not release any copies of Pike Family Court confidential video records, except for Paternity actions, without a specific written order from the presiding Family Court Judge. An individual requesting a judicial order must file a written motion, with notice to all parties, including the child's Guardian Ad Litem, if any, and set forth the purpose for the request.

Except that, pursuant to KRS 610.340(2), this shall not apply to public officers or employees engaged in the investigation and prosecution of cases under KRS Chapters 600 through 645 or other prosecutions authorized by the Kentucky Revised Statutes, as certified by that public officer or employee. Said public officer or employee shall use and distribute this information only for investigation or prosecution of offenses under the Kentucky Revised Statutes.

Approved and promulgated by Order of all Judges of the Pike Circuit Court and Family Court, this the 27<sup>th</sup> day of march, 2012.

  
\_\_\_\_\_  
HON. EDDY COLEMAN  
Pike Circuit Court, Div. No. 1  
\_\_\_\_\_  
HON. STEVE COMBS  
Pike Circuit Court, Div. No. 2  
\_\_\_\_\_  
HON. LARRY THOMPSON  
Pike Circuit Court, Div. No. 3

## **APPENDIX A**

### **TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 35<sup>th</sup> JUDICIAL CIRCUIT AND DISTRICT PIKE COUNTY/COUNTIES**

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

#### **I. Uniform Protocol for Processing Cases**

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:
  - (1) Pending Dissolution and/or Custody proceedings in another county;
  - (2) All parties reside in another county unless the party is a current resident of this county and left the county of usual residence in order to avoid domestic violence and abuse as authorized by KRS 403.725; or
  - (3) Presiding Judge recuses

Consistent with FCRPP 12, when the local domestic violence protocol requires that a case be transferred to another circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

## II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Circuit Judges; District Judges; Trial Commissioners; Circuit Court Clerk; and, Deputy Circuit Court Clerks. Should the Petitioner be unable to come to the Courthouse during regular business hours, then any Law Enforcement Officer may administer the Oath and submit the Petition to the Court

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Circuit Judges; District Judges; Trial Commissioners; Circuit Court Clerk; Deputy Circuit Court Clerks; and, any Law Enforcement Officer may administer the Oath and submit the Petition to the Court

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

Trial Commissioners;  
Circuit Judge, Family Division;  
District Judges; and,  
Circuit Judges, General Jurisdiction

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

Trial Commissioners;  
Circuit Judge, Family Division;  
District Judges; and,  
Circuit Judges, General Jurisdiction

- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

- F. The schedule for domestic violence hearings is as follows:

Mondays at 1:00 p.m.

### III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

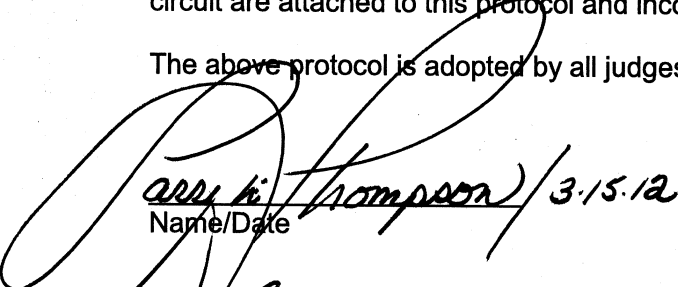
B. Petitioners seeking to initiate contempt proceedings should contact:

The Pike Circuit Clerk's Office  
The Pike Family Court's Office

C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district

  
Name/Date

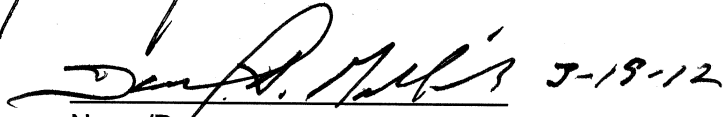
3-15-12

  
Name/Date

3/19/12

  
Name/Date

3/19/12

  
Name/Date

3-19-12

  
Name/Date

3/27/12